UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/433,257	11/04/1999	YEVGENIY EUGENE SHTEYN	PHA-23.782	2314

			EXAMINER
24738	7590	03/29/2005	LIN, WEN TAI

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ART UNIT	PAPER NUMBER
2154	

DATE MAILED: 03/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/433,257	SHTEYN, YEVGENIY EUGENE
	Examiner	Art Unit
	Wen-Tai Lin	2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _05 January 2005_.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _2-6 and 12-22_ is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _2-6 and 12-22_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a) ☐ All   b) ☐ Some * c) ☐ None of:

   1. ☐ Certified copies of the priority documents have been received.

   2. ☐ Certified copies of the priority documents have been received in Application No. _____.

   3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
      application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1.   Claims 2-6 and 12-22 are presented for examination.

2.   The text of those sections of Title 35, USC code not included in this action can

be found in the prior Office Action.

Claim Rejections - 35 USC § 103

3.   Claims 4-6 and 12-22 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Cohen [U.S. Pat. No. 5751968] in view of McLain [U.S. Pat. No.

6493758].

4.   Cohen was cited in the previous office action.

5.   As to claims 14-15, Cohen teaches the invention substantially as claimed

including: a method of, at a client device, forming a media presentation from multiple

related files, including a control information file [54, Fig.5; col.6, lines 26-40], stored on

one or more server computers within a computer network, the method comprising:

        downloading the control information file to the client device [56, Fig.5];

        the client device parsing the control information file [58, Fig.5; col.6, lines 26-40;

i.e., the interactive display application program must parse the connection file in order to

obtain the reference for segment file and its associated status]; and

based on the control information file, the client device:

retrieving a first file and using contents of the first file to begin a media presentation [60, Fig.5; col.6, lines 41-44];

concurrent with the media presentation, retrieving a next file; and

using content of the next file to continue the media presentation [64, Fig.5; col.6, lines 44-54].

Cohen does not specifically teach how the connection file is formed and using what format. That is, Cohen does not indicate whether the parameters contained in the control information file are extracted via parsing or not. However, in the same field of endeavor, McLain teaches that the control information file may be written in the form of XML file and use the browser's parser for extracting parameters therein [McLain: see col.1, lines 43-65].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used XML as an alternative format for composing Cohen's connection file because XML is well known for its flexibility, with which it would make Cohen's connection file more dynamic and adaptable for containing the rather sophisticated file status information [col.6, lines 26-40].

6.   As to claims 4-5, Cohen further teaches that the media presentation comprises an audio presentation or a video presentation [col.1, lines 49-54].

7.   As to claim 6, Cohen in view of McLain teaches that partitioning of media

presentation information between the multiple related files is described within the control

information file using tags corresponding to respective files [i.e., XML uses tags for

specifying various parameters and values].

8.   As to claim 16, Cohen in view of McLain further teaches that the XML file

identifies multiple alternative files corresponding to a given segment of the media

presentation, the method further comprising selecting and retrieving one of the multiple

alternative files [Cohen: col.6, line 63 – col.7, line 5].

9.   As to claims 12-13 and 17-22, since the features of these claims can also be

found in claims 4-6 and 14-16, they are rejected for the same reasons set forth in the

rejection of claims 4-6 and 14-16 above.

10.   Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Cohen [U.S. Pat. No. 5751968], as applied to claims 4-6 and 12-22 above and McLain

[U.S. Pat. No. 6493758], as applied to claims 4-6 and 12-22 above, further in view of Lin

et al.(hereafter "Lin")[U.S. Pat. No. 6405256].

11.   Lin was cited from the previous office action.

12.   As to claim 2, Cohen does not specifically teach that partitioning of media
presentation information between the multiple related files is determined by information
about the client.

However, Lin teaches a data streaming method/system wherein partitioning of
streamed data is based on the buffering capability of the client device [Lin: col.6, lines
47-50]. It would have been obvious to one of ordinary skill in the art at the time the
invention was made that Cohen's data file size should be a factor of the client's
buffering and display capability because this criterion makes sure that data streaming
in Cohen's media presentation can be achieved without overflowing the client's
buffering capacity [col.5, lines 39-53].

13.   As to claim 3, Cohen does not specifically teach that partitioning of media
presentation information between the multiple related files is determined by information
about the computer network.

However, Lin teaches a network comprising a plurality of caching servers, each
with expandable buffer for storing additional segments of streamed data for absorbing
network congestion [Abstract]. Since the caching servers and the network congestion
are part of the information of the network, it is obvious that the data segmentation in
Cohen's network, which obviously also comprises a plurality of communication nodes,
should also be based on the network's buffering capability in each intermediate network
node, because by doing so one would be able to anticipate Cohen system's tolerance
against traffic fluctuation.

14.   Claims 2-6 and 12-22 are rejected under 35 U.S.C. 103(a) as being unpatentable

over McLain [U.S. Pat. No. 6493758] in view of White et al. (hereafter "White") [U.S.

Pat. No. 6005563].

15.   As to claims 14-15, McLain teaches the invention substantially as claimed

including: a method of, at a client device, forming a media presentation from multiple

related files [Figs. 7A-7C], including a control information file [i.e., the CDF; see col.1,

lines 43-65] , stored on one or more server computers within a computer network

[Figs.1 and 10; note that (i) in the case of off-line browsing the host computer (16, Fig.1)

functions as a server with respect to the mobile device (18, Fig.1) and (ii) in the case of

on-line browsing, the content provider functions as a server and the mobile device a

client (see 12, 18, Fig.10)], the method comprising:

downloading the control information file to the client device [col.3, lines 21-32 and

50-56];

the client device parsing the control information file, wherein the control

information file is an XML file [i.e., by default the CDF file is parsed by the receiving

client's browser because it is written in XML format].

McLain teaches that the CDF file may contain a list of sound files for retrieving

and rendering at the client device. McLain does not specifically teach that media

presentation of an audio file and retrieval of its next file is performed concurrently.

However, in the same field of endeavor, White teaches a method for playing background music by playing an audio file and downloading its next file concurrently [1101, 1102, Fig.11B; col.14, lines 37-43].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to adopt the same concurrency in McLain's system because (1) audio clips need to be rendered in a smooth fashion and (2) by pipelining the retrieving and rendering process it would reduce transmission latency and avoid the burden of storing the entire set of audio clips locally [McLain: col.11, line 59 – col.12, line 23, wherein downloading files and filtering are performed in a streaming process].

16.   As to claims 2-3, McLain further teaches that partitioning of media presentation information between the multiple related files is determined by information about the client and about the computer network [Abstract; col.11, lines 12-32; col.7, line 38 – col.8, line 36; note that since the receiving buffer of the mobile device is also part of the network, the capabilities of the mobile device are also part of the network parameters (e.g., communication bandwidth)].

17.   As to claims 4-5, McLain further teaches that the media presentation comprises audio and/or video presentations [e.g., Figs. 7B-7C; col.10, line 61- col.11, line 9].

18.   As to claim 6, McLain further teaches that partitioning of media presentation information between the multiple related files is described within the control information

file using tags corresponding to respective files [col.3, lines 19-26, wherein XML uses

tags to define various parameters (see also Table 1)].

19.   As to claim 16, McLain further teaches that the XML file identifies multiple

alternative files corresponding to a given segment of the media presentation [e.g., in

terms of audio clips], further comprising selecting and retrieving one of the multiple

alternative files [col.9, line 60 – col.10, line 34].

20.   As to claims 12-13 and 17-22, since the features of these claims can also be

found in claims 2-6 and 14-16, they are rejected for the same reasons set forth in the

rejection of claims 2-6 and 14-16 above.

21.   Applicant's arguments with respect to claims 2-6 and 12-22 have been

considered but they are not deemed to be persuasive.

        Specifically, Applicant argues that

        (1) In response to the rejection based on McLain and White: McLain does not

teach "the feature of downloading a control information file stored on a server computer,

parsing the same, and based on such parsing, retrieving (from a server) a first file to

begin a media presentation, etc. ... there is no teaching that McLain's CDF file is

downloaded from the server preparatory to downloading content (e.g., segmented

content) from the server."

(2) In response to the rejection based on Cohen and McLain: the rejection is a

hindsight; there is nothing in the references themselves that would teach using XML for

the connection file of Cohen.

22.   The examiner respectfully disagrees with Applicant's argument.

1. As to point (1): Applicant is directed to the passages of McLain at col.1 line

43 – col.2, line 7; col.3, lines 2-65, wherein McLain clearly teaches that CDF file

(which can be written in XML, and thus requires a parser to obtain parameters

therein) is downloaded from a web site for providing references to a set of script

files and data files. For example, at col.1, lines 56-59 McLain teaches: "When a

particular page of content is to be displayed, a script file is accessed and is used

to operate upon the data file in order to render the desired information."

2. As to point (2): Throughout the previous office actions, it has been

established that Cohen teaches substantially all the features of claims 14 and 15

except that Cohen does not specifically teach that the control file may be written

in a format (such as XML) requiring a parser for extracting its parameters. The

mere feature depended on McLain is the teaching that the control file (i.e., CDF

file) can be written in XML. It would have been obvious to one of ordinary skill in

the art to recognize that Cohen's control file may also be written in XML because

XML has been proven to be a flexible markup language and has been widely

used in Internet browsing environment.

For at least the above reasons, it is asserted that the prior art of record reads on the

claims.

23.   THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

24.   A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

        Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Wen-Tai Lin whose telephone number is (571) 272-

3969. The examiner can normally be reached on Monday-Friday(8:00-5:00).

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone

numbers for the organization where this application or proceeding is assigned are as

follows:

(703)746-7239 for official communications;

(703)746-7238 for after final communications; and

(703)746-5516 for status inquires draft communication.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist whose telephone number is (703)305-

3900.

Wen-Tai Lin

March 21, 2005

3/18/05